

STATE OF TENNESSEE

Office of the Attorney General



2004 MAY 28 AM 11:45

T.R.A. DOCKET ROOM

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May 28, 2004

Honorable Deborah Taylor Tate
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

**RE: IN RE PETITION OF COUNCE NATURAL GAS CORPORATION TO
INCREASE ITS RATES
Docket No.: 04-00037**

Dear Chairman Tate:

Enclosed is an original and thirteen copies of a First Set of Discovery Requests to Counce Natural Gas Corporation by the Consumer Advocate and Protection Division of the Office of the Attorney General.

Kindly file the attached in this docket. By copy of this letter, we are serving all parties of record. If you have any questions, please feel free to contact me at (615) 532-3382. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Shilina B. Chatterjee".

Shilina B. Chatterjee
Assistant Attorney General
(615) 532-3382
E-mail: shilina.chatterjee@state.tn.us

Enclosures

cc: All Parties of Record

75749

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)
) DOCKET NO. 04-00034
APPLICATION OF COUNCE)
NATURAL GAS CORPORATION TO)
INCREASE RATES)

**FIRST SET OF DISCOVERY REQUESTS TO COUNCE NATURAL GAS
CORPORATION BY THE CONSUMER ADVOCATE AND PROTECTION DIVISION
OF THE OFFICE OF THE ATTORNEY GENERAL**

**To: Counce Natural Gas Corporation
c/o Mike Horton
Subsidiary of Tumlinson Engineering, Inc.
P.O. Box 285
Burnsville, MS 38833**

**Thomas M. McElroy, Esq.
301 North Broadway
P.O. Box 1450
Tupelo, Mississippi 38802-1450**

These Discovery Requests are hereby served upon Counce Natural Gas Corporation ("Counce" or "Company"), pursuant to Rules 26, 33 and 36 of the Tennessee Rules of Civil Procedure and Tenn Comp. R & Reg. 1220-1-2-.11. We request that full and complete responses be provided, under oath, pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Advocate and Protection Division ("CAPD"), 425 Fifth Avenue North, Nashville,

Tennessee 37243, c/o Timothy C. Phillips and Shilina B. Chatterjee, by June 11, 2004.

PRELIMINARY MATTERS AND DEFINITIONS

Each Interrogatory and Request to Produce calls for all knowledge, information and material available to Counce, as a party, whether it be Counce's, in particular, or knowledge, information or material possessed or available to Counce's attorney or other representative

These Interrogatories and Requests to Produce are to be considered continuing in nature, and are to be supplemented from time to time as information is received by Counce which would make a prior response inaccurate, incomplete, or incorrect. In addition, the CAPD requests that Counce supplement responses hereto with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert at hearing, the subject matter on which the expert is expected to testify, and the substance of the expert's testimony

The CAPD provides the following definitional guidelines. For purposes of these Interrogatories and Requests to Produce, the term "you" shall mean and include Counce Natural Gas Corporation and/or Tumlinson Engineering, Inc. and all employees, agents and representatives thereof.

The term "person" or "persons" as used herein refers to any natural person, corporation, firm, company, sole proprietorship, parent, partnership, business, unincorporated association, or other entity of any sort whatsoever. Where a company or organization is the party being served, all responses must include the company's response. Moreover, the company's designated person for responding must assure that the company provides complete answers. *A complete answer must provide a response which includes all matters known or reasonably available to the*

company

The term “identity” and “identify” as used herein, with respect to any person, means to provide their name, date of birth, current residence address, current residence telephone number, current business address, current business telephone number, and the occupation or job title of that person; with respect to an entity, those terms mean to provide the name by which said entity is commonly known, the current address of its principal place of business, and the nature of business currently conducted by that entity, with respect to any document, those terms mean to provide the date of the document, the nature of the document, and the title (if any) of the document.

The term “document” as used herein, means any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not limited to any writing, drawing, graph, chart, form, photograph, tape recording, computer disk or record, or other data compilation in any form without limitation. Produce the original and each copy, regardless of origin or location, of any book, pamphlet, periodical, letter, note, report, memorandum (including memoranda, note or report of a meeting or conversation), spreadsheet, photograph, videotape, audio tape, computer disk, e-mail, or any other written, typed, reported, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody or control or which was, but is no longer, in your possession, custody, or control If any such document or thing was, but no longer is, in your possession or control, state what disposition was made of it and when

The terms “and” and “or” shall be construed conjunctively or disjunctively as necessary to

include any information that might otherwise be construed outside the scope of these requests

The term “communication” means any transmission of information by oral, graphic, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, or otherwise

If you produce documents in response to these Interrogatories, produce the original of each document or, in the alternative, identify the location of the original document. If the “original” document is itself a copy, that copy should be produced as the original

If any objections are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege asserted.

If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.

If any of the interrogatories are not answered on the basis of privilege or immunity, include in your response to each such interrogatory a written statement evidencing:

- (A) the nature of the communication;
- (B) the date of the communication;
- (C) the identity of the persons present at such communication; and
- (D) a brief description of the communication sufficient to allow the Court to rule on a motion to compel.

If, for any reason, you are unable to answer a discovery request fully, submit as much information as is available and explain why your answer is incomplete. If precise information cannot be supplied, submit 1) your best estimate, so identified, and your basis for the estimate and

2) such information available to you as comes closest to providing the information requested. If you have reason to believe that other sources of more complete and accurate information exist, identify those sources.

If any information requested is not furnished as requested, state where and how the information may be obtained or extracted, the person or persons having knowledge of the procedure and the person instructing that the information be excluded.

If a document exists in different versions, including any dissimilar copies (such as a duplicate with handwritten notes on one copy), each version shall be treated as a different document and each must be identified and produced.

These discovery requests are to be interpreted broadly to fulfill the benefit of full discovery.

DISCOVERY REQUESTS

INTERROGATORIES AND REQUESTS TO PRODUCE

DISCOVERY REQUEST NO. 1:

Provide the dollar amount of dividends expected to be declared or paid out by Counce in the attrition year.

DISCOVERY REQUEST NO. 2:

Refer to Accountant's Report dated November 10, 2003. The income statement for the year ended September 30, 2003 indicates a net loss of \$44,546.00. The trial balance and the Form 1120 for the same time period both indicate a net loss of \$19,771.00. Please provide all adjustments and a narrative to reconcile the two numbers.

DISCOVERY REQUEST NO. 3:

Has a financial audit ever been performed for Tumlinson Engineering Corporation or for Counce Natural Gas Corporation? If not, please explain why a financial audit has not been performed.

DISCOVERY REQUEST NO. 4:

Form 1120 for the year ended September 30, 2001 shows Mr. Horton's salary at \$70,300.00. The next year his salary is shown as \$2,400.00 and for the year ended September 30, 2003, his salary is shown at \$19,256 00 Please explain the significant decrease in salary.

DISCOVERY REQUEST NO. 5:

Provide all leak reports and emergency incidents related to service lines and mains. Describe the costs over the past 3 years. Detail the cost incurred in repairing service lines and mains.

DISCOVERY REQUEST NO. 6:

Identify each person whom you expect to call as an expert witness at any hearing in this docket, and for each such expert witness:

- (A) identify the field in which the witness is to be offered as an expert;
- (B) provide complete background information, including the expert's current employer as well as his or her educational, professional and employment history, and qualifications within the field in which the witness is expected to testify, and identify all publications written or presentations presented in whole or in part by the witness;
- (C) provide the grounds (including without limitation any factual basis), for the opinions to which the witness is expected to testify, and provide a summary of the grounds for each such opinion;
- (D) identify any matter in which the expert has testified (through

deposition or otherwise), by specifying the name, docket number and forum of each case, the dates of the prior testimony and the subject of the prior testimony, and identify the transcripts of any such testimony;

- (E) identify the terms of the retention or engagement of each expert including but not limited to the terms of any retention or engagement letters or agreements relating to his/her engagement, testimony, and opinions as well as the compensation to be paid for the testimony and opinions;
- (F) identify all documents or things shown to, delivered to, received from, relied upon, or prepared by any expert witness, which are related to the witness(es)' expected testimony in this case, whether or not such documents are supportive of such testimony, including without limitation all documents or things provided to that expert for review in connection with testimony and opinions; and
- (G) identify any exhibits to be used as a summary of or support for the testimony or opinions provided by the expert.

DISCOVERY REQUEST NO. 7:

Provide all material provided to, reviewed by, used by or produced by any expert or consultant retained by Counce to testify or to provide information from which another expert will testify concerning this case, including all work papers.

DISCOVERY REQUEST NO. 8:

Produce a copy of all articles, journals, books or speeches written by or co-written by any of Counce's expert witnesses, whether published or not.

DISCOVERY REQUEST NO. 9:

State whether Counce has received any customer complaints of any kind for the period from January 1, 2000 to present, including, but not limited to, complaints regarding billing and payment, billing disputes, interruption of service, service connection, and disconnection or

termination of service. For each such complaint, state the name and billing address of the complaining customer, the date or approximate time frame the Company received the complaint, the nature of the complaint, the action the Company has taken to address or resolve the complaint, and the current disposition of the complaint

REQUESTS FOR PRODUCTION OF DOCUMENTS

Consistent with the preceding definitions and preliminary matters, produce the following communications and documents:

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1

Produce copies of all documents provided to, reviewed by or produced by any expert or consultant retained by Counce to testify or to provide information from which another expert will testify concerning this case.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2

Produce a copy of all work papers of Counce's proposed experts, including but not limited to: file notes, chart notes, tests, test results, computations, interview and/or consult notes, and all other file documentation that any of Counce's expert witnesses in any way used, created, generated or consulted in connection with the evaluation, conclusions and opinion in this matter.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3

Produce a copy of all trade articles, journals, treatises and publications of any kind in any way utilized or relied upon by any of Counce's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in this matter.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4

Produce a copy of all documents which relate or pertain to any factual information

provided to, gathered by, utilized or relied upon by any of Counce's proposed expert witnesses in evaluating, reaching conclusions or formulating an opinion in this matter.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5

Produce a copy of any exhibits to be used as a summary of or support for the testimony or opinions provided by any of Counce's proposed expert witnesses.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 6

Produce copies of any and all documents referred to or relied upon in responding to the Consumer Advocate's discovery requests.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 7

Produce copies of any and all documents referred to or relied upon in responding to the CAPD's discovery requests.

RESPECTFULLY SUBMITTED,



TIMOTHY C. PHILLIPS, B.P.R. # 012751
Assistant Attorney General



SHILINA B. CHATTERJEE, B.P.R. # 20269
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-3382

Dated. May 28, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on May 28, 2004, via facsimile or first-class U.S. Mail, postage prepaid, upon:

Mike Horton
Counce Natural Gas Corporation
Subsidiary of Tumlinson Engineering, Inc.
P.O. Box 285
Burnsville, MS 38833
PHONE: (662) 282-4261
FAX: (662) 282-7212

Thomas M. McElroy, Esq.
301 North Broadway
P.O. Box 1450
Tupelo, Mississippi 38802-1450
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SHILINA B. CHATTERJEE
Assistant Attorney General

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